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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,971	01/10/2001	Kamal Emile Dimitri	TUC920000072 US1	8350

7590 08/27/2003

Dale F. Regelman
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4231 S. Fremont Avenue
Tucson, AZ 85714

EXAMINER

SHAPIRO, JEFFERY A

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/757,971

Applicant(s)

TOD, JR., G. ROBERT

Examiner

Jeffrey A. Shapiro

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 23 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moyoyama et al (6,022,180) in view of Kanetsuku et al. Moyoyama et al discloses the following.

As described in Claims 1, 10, 11 or 19;

1. an automated data storage system for storing and accessing a plurality of data storage media stored in a plurality of storage slots, said automated data storage system having at least one data storage drive for receiving said data storage media and reading and/or writing data thereon (see abstract, for example);
2. a first media storage library (4) having a first rail system (8);
3. a garage (2 or 3) disposed adjacent said first media storage library, said garage having a (movable) rail system (8) disposed therein; (note that it would have been obvious to provide a garage that encompassed said movable rail system adjacent said media library so as to provide a place for an accessor to reside—see Ostwald et al, abstract, lines 5-9 and 14-end—the reason would have been to allow the switching of the robots (7)

of Moyoyama et al to another rail servicing another library unit—note that Moyoyama et al and Ostwald et al are considered to be analogous as they both concern the data media library accessing and storing art.)

4. one or a plurality of accessors (7) for accessing and transporting said data storage media between said storage slots and said data storage drive;

5. said one or a plurality of accessors is moveably disposed on the first rail system or on said movable rail system;

5a. said one or a plurality of accessors comprise a vertical pillar (7c), a lifting servo section (7k) movably disposed on said lifting servo section;

6. said movable rail system can be positioned such that said one or a plurality of accessors can move between said first rail system and said movable rail system (see figure 1 of Ostwald, for example);

As described in Claims 2 and 20;

7. said first rail system further comprises a proximal end and a distal end (note that said rails of said first rail system have two ends);

8. said movable rail system further comprises a first end and a second end (note that said rails of said movable rail system have two ends);

*9. said first end can be positioned to be substantially collinear with said proximal end such that said one or a plurality of accessors can move between said first rail system and said movable rail system (note that the

ends of rails of the movable rail system can be moved adjacent to a set of non-movable rails from the first system—see figure 1 of Ostwald);

As described in Claims 3, 12 and 21;

10. said movable rail system further comprises a first positioning apparatus disposed on said first end and a second positioning apparatus disposed on said second end (note that motors (see Ostwald, elements (111-113) combined with a belt and pulley at the other end of a movable rail system provides positioning capability for the movable rails—note also that these ends can also be construed as the first and second ends recited in Claims 2 and 20);

As described in Claims 4 and 13;

11. said movable rail system comprises two parallel rails (see Ostwald, elements (125 and 126));

As described in Claims 5 and 14;

12. said movable rail system comprises a plurality of paired parallel rails, wherein each of said paired parallel rails has a first end and a second end (see figure 1 of Ostwald, noting that the rails of one elevator system are located next to a second set of moving rails located on the other elevator system. Note also that it would be obvious to provide several pairs of rails driven by one motor/pulley drive system—the reason would be to provide greater movement capacity and throughput. Note also that having one single rail pair access several stationary pairs of rails

is a functional equivalent of Applicants' moving rail system where multiple rails move to meet an apparent single pair of rails);

As described in Claims 6, 15 and 22;

13. each of said pairs of parallel rails further comprises a first positioning apparatus disposed on its first end and a second positioning apparatus disposed on its second end (note that the pairs of parallel rails of Ostwald et al are considered to be functional equivalents of Applicants' positioning apparatus and movable rails);

As described in Claims 7 and 16;

14. said garage further comprises one or a plurality of doors (note that it would be obvious to provide a set of doors on said garage so as to provide access to the movable rail systems and accessors for maintenance as well as to keep the system free from contamination);

As described in Claims 8 and 17;

15. said first and second rail systems comprises two parallel rails (see Ostwald, figure 1);

As described in Claims 9 and 18;

16. one or a plurality of movable media storage devices (see Ostwald, figure 1, element (102));

Response to Arguments

3. Applicant's arguments with respect to Claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (703)308-3423. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703)306-4173. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

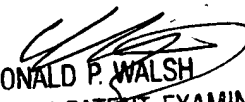
Art Unit: 3653

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.



Jeffrey A. Shapiro
Examiner
Art Unit 3653

August 23, 2003



DONALD P. WALSH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600